

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ERIKA R. GRAY

v.

LELAND KRUEGER, GREG LEVELING,
and JAMES DAVIS a/k/a JIM DAVIS

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Case No. 4:10-CV-417
Judge Schneider/Judge Mazzant

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On June 14, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Jim Davis' Motion to Dismiss for Failure to State a Claim in Response to Plaintiff's Second Amended Complaint (Dkt. #28) should be granted in part and denied in part.

The Court, having made a *de novo* review of the objections raised by Defendant James Davis, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Defendant Jim Davis' Motion to Dismiss for Failure to State a Claim in Response to Plaintiff's Second Amended Complaint (Dkt. #28) is **GRANTED** in part and

DENIED in part. Claims against Davis for false arrest and use of excessive force are dismissed.

All other claims against Davis shall remain.

It is SO ORDERED.

SIGNED this 12th day of July, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE